

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ROBERT HANKINS,	)	
	)	
Plaintiff,	)	Case No. 1:07-cv-332-SJM-SPB
	)	
v.	)	
	)	
JEFFREY BEARD, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**MEMORANDUM JUDGMENT ORDER**

Plaintiff's complaint in this civil rights action was received by the Clerk of Court on December 3, 2007 and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation, filed January 13, 2011 [226], recommends that the Defendants' Motion for Partial Summary Judgment [194] be granted in part and denied in part. On January 21, 2011 Plaintiff filed a Motion to Add Additional Documents [227] as well as a "Motion to Add Clarification" [228]. Plaintiff's objections [229] and "Motion in Support of Objection" [230] were filed on January 27, 2011.

After de novo review of the complaint and documents in the case, together with the Report and Recommendation and Plaintiff's objections and other filings in response thereto, the following order is entered:

AND NOW, this 23rd Day of February, 2011;

IT IS ORDERED that the Defendants' Motion [194] for Partial Summary Judgment be, and hereby is, GRANTED in part and DENIED in part as follows:

1. Said motion is GRANTED insofar as it relates to Plaintiff's Fourteenth Amendment Due Process claim. With respect to this claim, JUDGMENT is hereby entered in favor of all original and Hearing Examiner Defendants and against Plaintiff Robert Hankins;
2. Said motion is GRANTED insofar as it relates to Plaintiff's Eighth Amendment claim premised upon the alleged use of excessive force on May 9, 2006. With respect to this claim, JUDGMENT is hereby entered in favor of Defendants Zaken, Manchas, Harris, and Wilson and against Plaintiff Robert Hankins; and
3. Said motion is GRANTED with respect to Defendants Nose, Wilson, and Nickelson insofar as it relates to Plaintiff's Eighth Amendment claim premised upon the alleged use of excessive force on May 2, 2006. With respect to this claim, JUDGMENT is hereby entered in favor of Defendants Nose, Wilson, and Nickelson and against Plaintiff Robert Hankins; and
4. Said motion is DENIED with respect to Defendant Zaken insofar as it relates to Plaintiff's Eighth Amendment claim premised upon the alleged use of excessive force on May 2, 2006.

By virtue of the foregoing, IT IS ORDERED that the following Defendants be, and hereby are, terminated from this case: Beard, Bitner, Stickman, Wilson, Krysevig, Harris, Nickelson, Manchas, Cross, Baker, Kane, Moslak, Weaver, Kerns-Baw, and Dupont.

As a result of the foregoing, the only claims remaining in this case are Plaintiff's Eighth Amendment claim against Defendant Nose relative to the events of May 9, 2006 and Plaintiff's Eighth Amendment claim against Defendants Rymarowicz, Chapley, Faulkner, and Zaken relative to the events of May 2, 2006.

The Report and Recommendation of Magistrate Judge Baxter, filed on January 13, 2011 [226], is adopted as the opinion of this Court.

s/ Sean J. McLaughlin

SEAN J. McLAUGHLIN  
United States District Judge

cm: All parties of record

U.S. Magistrate Judge Susan Paradise Baxter